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- 4) Reichel (O.J.) Solemn Mass at Rome in the 9th. 1895
- 5) Headlam (S.) Meaning of the Mass. 1905.











# ON CONVOCAATION

BY

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LATE BISHOP OF OXFORD

PREPARED FOR PUBLICATION BY

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ARCHDEACON OF NORTHAMPTON

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# ON CONVOCATION





# ON CONVOCAATION

*A LETTER TO THE ARCHBISHOP (BENSON)  
OF CANTERBURY; AND A SPEECH IN THE  
UPPER HOUSE OF THE CONVOCAATION OF  
THE SOUTHERN PROVINCE*

BY

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1917





LAMBETH PALACE, S.E.,  
*February 15, 1917.*

MY DEAR ARCHDEACON HUTTON,

I should rejoice to see Bishop Stubbs's article on the joint action of the Convocations made public. I have known the pamphlet well for years and have often myself wished that it should be published, but I think I am right in saying that Bishop Stubbs himself was disinclined to its publication. I do not think that that fact is conclusive against its publication now, provided it is made clear that though printed by him in 1887 (thirty years ago) he never published it, whether because he wished to revise it further or for any other reason. I am sure that many would be both interested and instructed by what he says.

With regard to the speech in Convocation in 1898 there can I imagine be no question at all. We have never claimed, so far as I know, copyright for the Chronicle of Convocation in connexion with such a thing as this.

I am,  
Yours very truly,

RANDALL CANTUAR.





## PREFACE

AT this time, when the relations between Church and State in England are the subject of close historical investigation and scrutiny, with the hope of a reform which, from the ecclesiastical and the political point of view alike, is greatly to be desired, it seems well to publish two valuable statements of the late Bishop William Stubbs, the great English constitutional historian of the nineteenth century.

The earlier is concerned with the question of the joint action of the Convocations of Canterbury and York ; where it had existed in the past, and how ; whether it is possible to-day, and, if so, by what authority and under what conditions. It was addressed to Archbishop Benson, and was printed by Dr. Stubbs (then Bishop of Chester) for private circulation, in 1887.

The second is a speech (from which a few introductory words, as of no interest to-day, have been omitted) delivered in the Upper House of the Convocation of Canterbury in 1898. The Chronicle of Convocation which contains it is now out of print. It deals with the question as to how the reform of Convocation, particularly with a view to the better representation of the parochial clergy, should be effected. The constitutional method of reform, Dr. Stubbs argued, is by Act of Parliament, legalizing changes to be introduced by the Archbishops.

Having obtained the cordial approbation and consent of the Bishop's representatives, I thought it right to ask the Archbishop of Canterbury to sanction the

publication of what was originally a letter addressed to one of his grace's predecessors. His kind reply I print, as his grace suggests, as it stands. I have also applied for advice to the Archdeacon of London, who was for several years in close association with the Bishop, as his domestic chaplain, and to the Dean of Chester, one of his oldest and most intimate friends. The Archdeacon replies, as to the Bishop's wishes, "I can say quite definitely that he would not object to publication now"; and the Dean writes, "You will do an excellent work for the Church and for Convocation if you will get the speech and letter reprinted."

Thus fortified, and the Archbishop of Canterbury having "expressed his satisfaction that the article and speech are to be published," I have felt justified in arranging for the issue of what I believe to be of permanent historical interest.

It will be seen that both these documents have an important bearing on the questions raised by the Report of the Archbishops' Committee on Church and State. They justify the view that the time has come when power should be sought from the Crown and Parliament to deal with purely Church affairs in a Church Council, with due safeguards for the inalienable rights of the State. It is true that Convocation, as the judges of the Queen's Bench declared in 1888, is "an ancient body, as old as Parliament, and as independent" (*R. v. Archbishop of York*, 20 Q.B.D. 740). It may indeed be said that the Convocation of Canterbury, since its present constitution dates from 1283, is the older, and the Convocation of York, in its method of representation, older still, for it is found as early as 1279.<sup>1</sup> And, for its independence, it may be sufficient illustration that in 1894 it was made

<sup>1</sup> Wilkins, *Concilia*, ii. 41; see Stubbs, *Constitutional History*, ii. 198.

evident that Convocation could sit when Parliament did not sit, and that "the Archbishop's prorogation is recognised in determining the meeting, irrespective of any other document."<sup>1</sup> Or, to put it most simply, by the ancient and existent Constitution of England, Convocation no more acts under the authority of Parliament than Parliament acts under the authority of Convocation. They both act under the authority of the Crown. But no change in the constitution of the country can be made except by the Crown and Parliament.

The letter on the joint action of Convocations throws some light on the opinion expressed in the Report of the Archbishops' Committee on Church and State (p. 6), that the creation of two provinces in England was harmful; that the division between them, "amongst other things, led to the murder of Becket, helped to defeat Edward I's plan of an estate of clergy, prevented any union of the English Church except under papal legates, and deepened that rift between north and south which showed itself in the Wars of the Roses and the Civil War, and lasted till the Industrial Revolution," and that Gregory the Great, when he decreed that there should be two Archbishops, set up "a dualism inconsistent with the true functions of a great spiritual body." These historical statements are hardly, I venture to think, such as Bishop Stubbs would have approved, and they would need a good deal of rewriting of English history to substantiate them. But they at least show that the relations between the two provinces in the English Church are still regarded by some as a matter for criticism. However this may be, there is no reason to doubt that the great constitutional historian would have welcomed the creation of a single Council for the Church of England.

<sup>1</sup> *Life of Archbishop Benson*, ii. 561.



It may possibly be suggested that the five Appendices contributed by the Bishop to the Report of the Royal Commission on the Constitution and Working of the Ecclesiastical Courts, 1883, should have also been reprinted. But the criticism of the late Professor Maitland (*Roman Canon Law in the Church of England*, 1898) has rendered the most important of these still a matter of dispute, and as the Bishop would certainly have revised what he had written in the light of Dr. Maitland's judgement, it would not be right now to re-issue it unaltered. It must be remembered, however, that the last published statement of the Bishop, after he had read what Dr. Maitland had written, was that his Appendices were "true history and the result of hard work" (*Lectures on Medieval and Modern History*, 3rd Edition, 1901).

I may, perhaps, be permitted to say that, apart from details as to which opinions may naturally differ, the Report of the Archbishops' Committee seems to me to be most valuable, most wise and prudent, most helpful towards the solution of a problem which has been difficult in all ages but never more difficult than in England to-day.

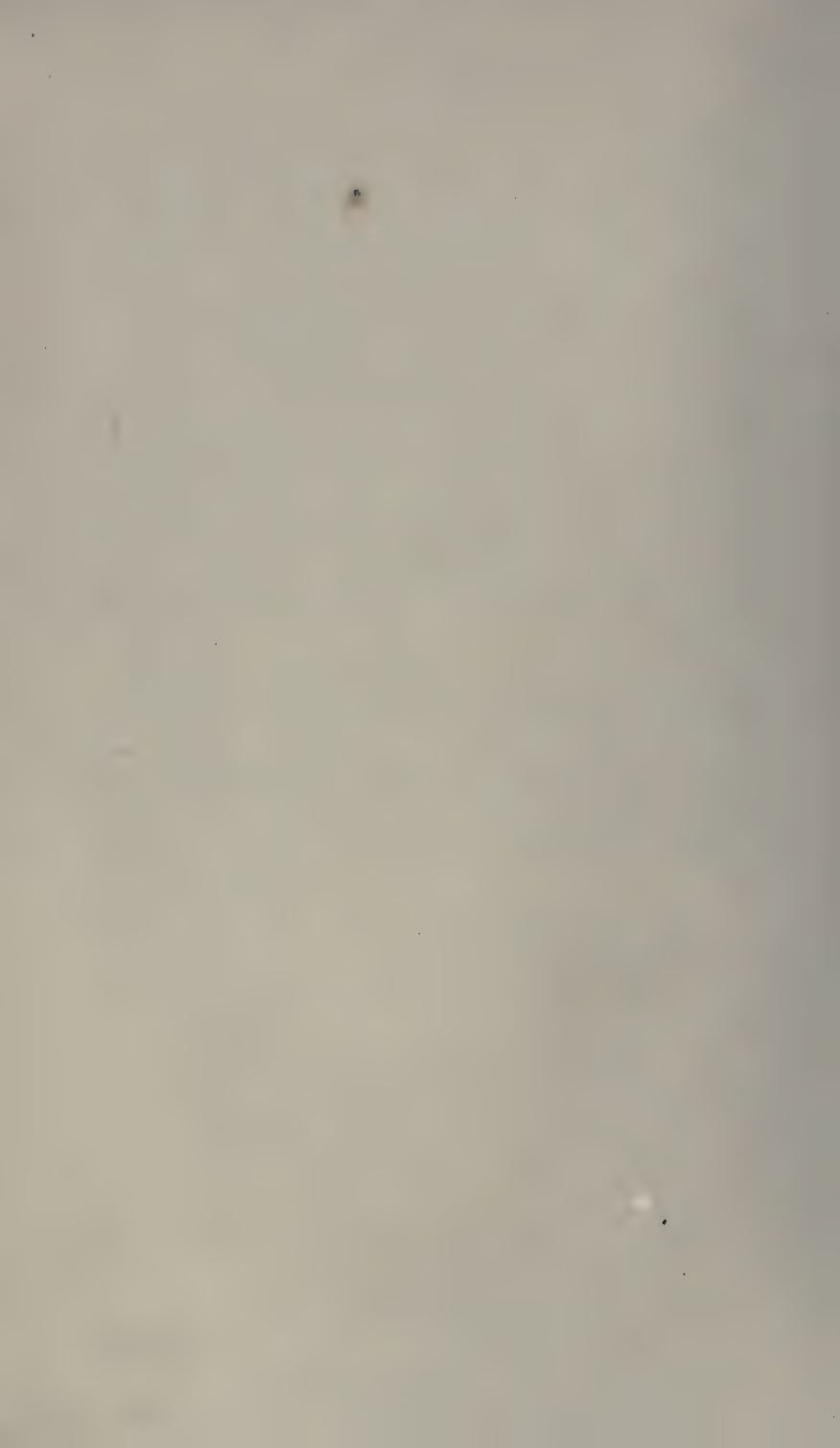
W. H. HUTTON,

*Archdeacon of Northampton.*

*Lady Day, 1917*

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# JOINT ACTION OF CONVOCATIONS

## *A Letter to the Archbishop (Benson) of Canterbury*

MY DEAR LORD ARCHBISHOP,

I understand your Grace's note as an intimation that you wish me to draw up a memorandum on the question of the possibility, and possible conditions, of a National Synod of the Church of England, to be constituted by a union or joint sitting of the Convocations of the two provinces. In addressing myself to the task you allow me to go beyond the bare legal or constitutional aspects of the subject, on which I cannot pretend to do more than furnish materials for a decision, and to review the historical details which have been or may be adduced in illustration of the point in question, although they cannot be admitted as evidence or as grounds for legal argument. I shall to a certain extent avail myself of this permission, in the belief that, although from such materials I can furnish no new argument, I may be able to clear the ground by the exclusion of erroneous or irrelevant conclusions, such as have been from time to time current upon a matter which, notwithstanding its great practical importance, has to be argued within very narrow grounds and on a very limited amount of material fact. For I am bound to say that, in my opinion, the whole question turns on the point whether or no it is competent for the Crown and the Church, on the terms and within the conditions of

the first clause of the Submission of the Clergy, to co-operate for the summoning and holding of such a National Synod as is desired. Earlier materials, accordingly, may be used for the interpretation of the language of the Submission, but not to prove the validity of rights, abolished, limited, superseded, or otherwise modified by the Submission, or to justify theories or practices which, although untouched by it, have by disuse ceased to be parts of the recognised and living constitution of Church and Realm.

Even in such a limited use of these materials as seems, in courtesy, to be due to those writers on the subject who have used them too constructively, and, as it seems to me, too dogmatically, some caution is needful. But, as a matter of personal importance, I will remark here that I follow in this inquiry a plan different from that which I adopted in drawing up the historical appendix to the Report of the Ecclesiastical Courts Commission, for two reasons ; first, because the point at issue in that Report seemed to me to be one essential to the character of the Church, in which judicial freedom within certain limits must be asserted and vindicated at any cost, whilst here the consultative powers of the clergy are not really in question, only the proper and most convenient way of exercising them ; and secondly, because, as it seems to me, the vindication of a recognised and perpetual right, such as that of Church Discipline, from an ever-opposing and encroaching aggression of the secular law, is a very different thing from the assertion of a right or custom for a particular mode of consultation, which may have never prevailed, or have been for ages obsolete, and which, for recognition or revival, would need more than historical or political proofs of feasibility.

It is unnecessary for me to discuss the question

whether, on the theory of a National Church, a National Synod should be regarded as an essential characteristic of such an institution, or whether the necessary conditions of nationality would be fulfilled by a simple harmony of results in the deliberations of separate provincial, or even diocesan, councils. I will content myself with observing that, from the first ages of English Christianity to the latest date at which a body of canons was promulgated, the idea of a National Synod has been present to the mind of the Church. S. Gregory the Great, when in his commission to Augustine he assigns to the future English Church two provinces of twelve dioceses each, directs that the two metropolitans are to arrange their proceedings by common counsel and concordant action; the Council of Hertford,<sup>1</sup> held by archbishop Theodore in A.D. 673, determined in its seventh canon that an annual synod should be held at Clovesho<sup>2</sup> on August 1; which can only be understood as an assembly of the whole episcopate of the nation. The 139th canon of 1604 is entitled "a National Synod of<sup>3</sup> the Church Representative," and describes that body as the Sacred Synod of this nation in the name of Christ and by the King's authority assembled; and on the title-page of the Form of Prayer used at the opening of the Convocation of Canterbury at the present day, the occasion of its use is denoted as "Forma precum in utraque domo Convocationis sive synodi praelatorum et ceteri cleri, seu provincialis seu nationalis." I am aware that it is argued, as was very strongly urged by archbishop Wake,<sup>4</sup> that "the

<sup>1</sup> Bede, H. E., i. 29.

<sup>2</sup> Ibid., iv. 5.

<sup>3</sup> [The word "of" is inserted apparently by a slip on the author's part. The title of Canon 139 is "A National Synod the Church Representative." W. H. H.]

<sup>4</sup> State of the Church, p. 73. The Archbishop however maintains that not the Convocations, but the Provincial Councils, which he



Convocation, though it be provincially summoned and, with respect to each province, is a provincial assembly, yet it is, in the intention of the Law, a National Convention of the whole Clergy of England in two provincial Convocations ;” and that thus interpreted the canon is satisfied by the coincident sessions. It is conceivable that the canon of 1604 may have been passed by the Convocation of Canterbury in oblivion or contempt of the Provincial Convocation of York ; the Form of Prayer has only the authority of a formal preamble. But, whilst I do not adduce these points by way of argument, I cannot but believe that they illustrate a continuous and conscious tradition ; and I cannot so far antedate the modern use of the term Synod as to understand by it, not the assembled body of bishops and clergy, but the body of bishops and clergy constituted for the purpose, as well out of session as in session, whether assembled or not or meeting in different centres. The Holy Synod of Russia may be the designation of a governing body, in or out of session, but the National Synod of the canon of 1604 ought to mean, and I believe does mean properly, a Synod in Session, not merely the body that constitutes it.

In interpreting the idea of a National Synod it is of course necessary to look to the varying circumstances of the Church at the times when it was attempted to realise it ; to bring into consideration accordingly the ages during which bishops alone, or bishops and

distinguishes in design and end [although not in constitution] from Convocations, are the proper Church Synods, and may be assembled at any time by the authority of the king’s writ ; p. 29. I adduce his argument here only by way of analogy. The whole is worth reading, but the reasons for distinguishing between the Convocations called in both provinces and at the king’s request, and the Provincial Councils called for purely ecclesiastical business, without relation to one another, and before 1532, by the archbishops without the king’s writ, do not affect the point here put.



abbots, were the recognised members of the synods; the ages during which the Church of Canterbury occupied an effective position of supreme or modified primacy; those, on the other hand, in which the provincial administration of York was practically and theoretically independent; and the circumstances of the Church when, under the supremacy of Rome, its machinery was so manipulated as to permit the use of expedients which, after the removal of the papal pressure, were as matters of fact excluded from practical administration. Under all these variations we must, I think, regard the contemporaneous national recognition, rather than the letter of law or the tradition of the schools, to be the interpreter of valid custom.

It will be convenient, without further preface, to indicate the several periods into which English Conciliar History is divided in relation to the Provincial System: these are—

1. The period extending from the foundation of the English Church to the recognition of the provincial independence of York: A.D. 596-735.

2. The period of provincial administration up to the date of the Norman Conquest and the claim made by Canterbury for a profession of obedience from York: A.D. 735-1070.

3. The period of the struggle of York against the supremacy of Canterbury: A.D. 1070-1119 [-1176-1306-1354].

4. The period extending from the acquisition of final independence by York to the date of the completed organisation of the Convocations: A.D. 1119-1283 × 1295.

5. The period extending from the completion of the organisation of the Convocations to the Submission of the Clergy: A.D. 1532.

6. From the Submission of the Clergy to the present

day: this period must be subdivided into (a) A.D. 1532–1664, when the clergy ceased to vote subsidies in Convocation; (b) A.D. 1664–1717, when the proper sessions were suspended; (c) A.D. 1717–1887.

I. The period extending from the foundation of the English Church to the recognition of the provincial independence of the see of York.

S. Gregory in his letter to Augustine, written when he sent him the Pall and recognised him as bishop of the English, directed the arrangement of the Church in two provinces of twelve dioceses each, under two independent metropolitans, one at London, the other at York, of whom the senior should have precedence, and who were to work by “common counsel and concordant action.”<sup>1</sup> This direction of the pope was practically inoperative, although for ages it was referred to as exhibiting the ideal at which the provincial administration should aim. Canterbury was never superseded by London as a metropolitan see; and York, which thirty years later received Paulinus as bishop, with a papal recognition and a Pall, failed to obtain a body of suffragans. Paulinus, in fact, was unable to organise the province; it is not recorded that he attended any national synod, and after eight years of struggle he retired into the south. When archbishop Theodore in 669 undertook the organisation of the Church, he treated S. Gregory’s direction as non-existent. He, as well as his two immediate successors, managed the whole Church as one province under the rule of Canterbury. This state of things ended in 734 or 735, when Egbert of York, following the advice of the Venerable Bede,<sup>2</sup> obtained the Pall from Rome and the submission of the Northumbrian bishops. As, during this period, the presence of

<sup>1</sup> Bede, H. E., i. 29.

<sup>2</sup> Ep. ad Egb., § 5.

Northumbrian bishops in any synod held by the archbishop of Canterbury would be in obedience to him as their recognised metropolitan, no precedents can be adduced for the joint action of the two provinces.

II. The period of provincial administration : A.D. 735-1070.

During this long period the Church was governed by the two metropolitans in independence of one another, with the exception of an interval of from twelve to sixteen years (A.D. 788-801), during which a third metropolitan see was established at Lichfield. It is not always easy to determine whether the assemblies in which, during this period, the bishops and abbots met, are to be regarded as proper ecclesiastical synods, or as meetings of the witenagemot of the several kingdoms. There is, however, no instance of a distinctly ecclesiastical synod in which the bishops and clergy of the two provinces met. There are several full accounts of councils of the Southern province, and there are incidental notices of synods of the province of York ; but it is important to observe that on the occasion of the great consultation held under the legates George and Theophylact in A.D. 787 or 788,<sup>1</sup> in consequence of which the same body of canons was accepted in both provinces, the bishops, together with the kings and ealdormen of the two, met in separate assemblies.

During the continuance of the metropolitanate of Lichfield several charters were issued which, if genuine, prove that synodal meetings of the prelates of the two Southern provinces were held, the senior archbishop having precedence among the attesting and confirming witnesses. But these assemblies were of a mixed

<sup>1</sup> Wilkins, *Conc.*, i. 151.



character, and the whole history of this short interval is anomalous. One result, however, of the design was permanent ; the institution, or careful continuance, of the exaction of a vow or profession of obedience made by the bishops of the Southern province to the archbishop of Canterbury, after his recovery of his rights and the abolition of the metropolitanate of Lichfield. No serious attempt seems to have been made to bring the Northern bishops under the same subjection until the Norman Conquest : all the documents, which were at that time produced in order to prove the dependence of York on Canterbury and the absolute character of the metropolitanate of the latter Church over the whole of Britain, being, as I shall note later on, either fabrications of the time, or records misunderstood, having no warrant in accepted usage, or permanent recognition.

From the beginning of the ninth century to the Conquest the history of the See of York is very obscure, and the Northumbrian kingdom has very little connexion in ecclesiastical affairs with the Southern province until the reign of Edmund. After the middle of the tenth century the names of the archbishops of York reappear among the attestations of the charters, and prove their presence at the national witenagemots. The notice by Alcuin of a conventum between the two archbishops in A.D. 801 may refer to a synodical meeting,<sup>1</sup> but after that time there is no clear instance of the attendance of the archbishop of York or any of his suffragans (of whom the bishop of Lindisfarne, or Durham, was the last survivor) at any ecclesiastical council either of the province of Canterbury or of the National Church. Nor is there any evidence after the year 800 of any provincial council in Northumbria. The attestation

<sup>1</sup> Alcuin, *Epist.*, ed. Froben, 173 ; Haddan and Stubbs, iii. 532.



accordingly of the archbishop of York, appended to charters of the period, may simply denote his presence at the witenagemot, which may occasionally have included a synod ; although the attestation would not be necessarily regarded as that of a proper member, any more than those of the kings and ealdormen. It is to be remembered, further, that after the union of the several kingdoms under Edgar the archbishop of York frequently held, with his metropolitan see, the bishopric of Worcester, in virtue of which he would be virtually a suffragan of the Church of Canterbury : such was the case from A.D. 972 to 1016, and again from A.D. 1044 to 1062. No conclusion as to the union of the two provinces for counsel or debate can be drawn from premisses so vague, so obscure, and, in many points, of such doubtful authenticity.

III. The period of the struggle of York against the supremacy of Canterbury : A.D. 1070-1119.

During this time the archbishops of Canterbury obtained from the archbishops of York a qualified expression of obedience. This was claimed on the ground and authority of a series of papal letters of which there are no traces at an earlier time, which are in purport at variance with genuine letters of the dates assigned to the suspected series,<sup>1</sup> and which can only be regarded as authentic on the extreme hypothesis of an irrational and continuous policy of double dealing on the part of the authorities of Rome. The only document of ancient origin which can be produced in confirmation of the claim is a profession made by a bishop Eadulf, with the title *Eboracensis*, to archbishop Æthelheard in the year 796.<sup>2</sup> No such bishop of York existed at the time ; and the title is an interpolation in

<sup>1</sup> Will. Malmesb., *Gesta Pontificum*, lib. i. §§ 25-39.

<sup>2</sup> Haddan and Stubbs, *Councils*, ii. 506, 507 ; *Textus Roffensis*, p. 248.

a document which belongs unquestionably to the Bishop of Lindsey of that name. On such evidence, however, and the credit given to it in England and at Rome, archbishop Lanfranc claimed from archbishop Thomas of York an acknowledgement of obedience. The relations so established between two archbishops, both, in virtue of the possession of the Pall, entitled to the fulness of metropolitan authority, were altogether anomalous; and the adjustment of them was the subject of a solemn deliberation in a council held at Winchester in A.D. 1072 at Easter in the presence of a papal legate, and resulted in a compact there made, and confirmed at Windsor at the following Whitsuntide.<sup>1</sup> By this agreement the archbishop of York is (1) recognised as subject to the archbishop of Canterbury as primate of the whole of Britain, (2) the archbishop of Canterbury concedes to the archbishop of York the jurisdiction over the diocese of Durham and the Scottish Churches, (3) on the understanding that if the archbishop of Canterbury should wish to assemble a council, the archbishop of York and all his clergy should attend it and obey the canonical directions of the primate; (4) a sworn profession of obedience was to be made by the successors of archbishop Thomas, from whom, as a personal favour, Lanfranc accepted a written form without the oath; in case of succession, the archbishop of York was to go to Canterbury for consecration: and when Canterbury was vacant he was to join the other bishops at Canterbury in the consecration of a new primate. This agreement remained in force for a few years; the two immediate successors of Thomas made their profession of obedience to Canterbury;<sup>2</sup> the next, Thurstan, was in 1119 consecrated without such profession by pope Calixtus

<sup>1</sup> Wilkins, *Conc.*, i. 324, 325.

<sup>2</sup> W. Malmesb., *Gesta Pontiff.*, lib. iii. §§ 117, 118, 120, 124.

II: a papal bull issued in or about the year 1176 forbade the exaction or offering of the profession as contrary to the instructions of S. Gregory;<sup>1</sup> and although in 1306 archbishop Greenfield had to forbid his people to resort to the courts of Canterbury, and the struggle for matters of title and ceremony continued until the year 1354, the independence of York was assured from the date of Thurstan's consecration.

During this period the archbishops of York and bishops of Durham attended not only the royal courts in which the archbishops of Canterbury took the leading place, and in which ecclesiastical business was frequently discussed, but the proper ecclesiastical councils held by the primates for the whole of the English Church. Such councils were held in 1075 at S. Paul's;<sup>2</sup> at different dates under Lanfranc at Winchester and Gloucester;<sup>3</sup> in 1093 for the consecration of Anselm, on which occasion archbishop Thomas procured the substitution of "primas" for "metropolitana totius Britanniae" in the title of the Church of Canterbury;<sup>4</sup> and in 1102, and 1107, at London under Anselm.<sup>5</sup>

From the date of Thurstan's consecration, performed by the pope and without the disputed profession, the independence of the Northern province was assured, but the quarrel did not immediately subside. The difficulty of providing for the provincial administration in a province which had but one suffragan, and of organising a general assembly of the National Church under two independent metropolitans, was not overcome. Recourse was had for some time to the "legatine" system, according to which the clergy were collected in council before a papal representative whose authority was not questioned. Thus in the year 1125 a general council

<sup>1</sup> R. de Diceto, i. 406.

<sup>2</sup> Wilkins, Concilia, i. 363.

<sup>3</sup> Ibid., 369.

<sup>4</sup> Ibid., 370.

<sup>5</sup> Ibid., 383, 386.



was held under John of Crema, at which both the archbishops and twenty bishops attended ;<sup>1</sup> in 1126 the archbishop of Canterbury obtained for himself a legatine commission and summoned a similar synod, to which the archbishop of York and the bishop of Durham sent excuses ;<sup>2</sup> in 1138 when Alberic of Ostia held a legatine council the archbishop of York was represented by the Dean ;<sup>3</sup> the legatine assemblies held by Henry of Blois between 1139 and 1144 took place whilst the administration of York was in abeyance and the kingdom in a state of anarchy : and, before the air clears under Henry II, the practical severance of the two provinces for ordinary purposes has become permanent.

IV. The period extending from the final independence of the See of York to the date of the completed organisation of the Convocations : A.D. 1119-1283 + 1295.

During this period it becomes necessary to distinguish, more carefully than before, between (1) the assemblies of the bishops and clergy, in response to the royal summons, or in pursuance of ancient custom, as attendant on the royal council ; assemblies which bear to the national council or Parliament of the period a relation analogous to that which the Parliamentary assembly of the clergy bore to the Parliament after it had received its final form under Edward the First ; (2) the provincial assemblies of the bishops and clergy, constituted by representation or otherwise, which are the direct antecedents of the two provincial convocations, and are indeed, except by the accidents of developing institutions, identical with them ; which provincial assemblies were very frequently summoned by the archbishops in compliance with royal requests, to transact business of

<sup>1</sup> Wilkins, i. 406-08.

<sup>2</sup> Ibid., 410.

<sup>3</sup> Ibid., 414.



taxation or other, in which the interests of the clergy were not identical with those of the laity ; but which were likewise summoned from time to time by the archbishops without such royal request for the transaction of proper ecclesiastical business ; and (3) national or general ecclesiastical synods<sup>1</sup> convoked under papal legates, which action, including the admission and authoritative proceedings of the legates, was subject to the royal permission, and was watched with even more jealousy than the normal action of the national clergy.

(1) An examination of the records of these assemblies shows that, in the first class, there was little or no distinction of provincial organisation observed, except during that part of the reign of Edward I in which Parliament and Convocation alike were advancing tentatively to their final form. Generally the bishops and higher clergy attended the *quasi*-Parliaments in London whenever they were summoned. The money contributed by the clergy from their spiritual revenue was sometimes granted in diocesan assemblies, sometimes in provincial assemblies, sometimes reported or even granted by their representatives in the general Parliament ; and some of the records in which these processes are traced suggest some superficial points of resemblance to joint provincial action. In the year 1252, on the occasion of an application by joint letters of the king and pope for a grant, the archbishop of York and the bishops of Durham and Carlisle reply that their clergy, consulted in the diocesan synods, are of opinion that as the business touches the whole Church of England, and in such cases it was customary to hold a common deliberation between the clergy of the two provinces,<sup>2</sup> that expedient should be followed. In 1254 the bishops were directed to report the grants of the

<sup>1</sup> Wake, *State, etc.*, pp. 25-29.

<sup>2</sup> Royal Letters of Henry III, ii. 95.

clergy, by accredited representatives, to the council ;<sup>1</sup> in 1269, in an assembly half-parliamentary and half-ecclesiastical, the proctors of the northern dioceses joined with those of Canterbury in presenting *gravamina*.<sup>2</sup> Somewhat later, in the reign of Edward I, the provincial feeling was recognised in this department of work ; when in 1283 the Parliament sat in two divisions at Northampton and at York, the clerical proctors were similarly divided ; but the case was unusual.<sup>3</sup> In 1294 the whole body of the clergy was summoned, by representative proctors of both provinces, to meet at London,<sup>4</sup> in the form some ten years before adopted for Convocation, and at a time when no Parliament was sitting. This assembly was however called by the royal writ addressed to each of the bishops, and really forms the link and marks the moment of transition from the older attendances of the clergy for *quasi*-parliamentary purposes to their incorporation as a representative estate in Parliament by the *Praemunientes* clause in the writs, which was established in the following year. These cases of joint action under royal writ are a very near approximation to joint sittings of Convocations.<sup>5</sup>

(2) I am unable to find any cases in which the proper provincial synods met in one assembly under the archbishop of Canterbury as primate, during the whole of the period otherwise so full of anomalies and tentative expedients. The independence of the Northern metropolitan was too jealously watched for anything of the kind to have occurred, and gave room for difficulties on the rare occasions on which, under a legatine commission, the whole clergy were called together. An ecclesiastical council was held at Oxford in 1241 during the vacancy of the See of Canterbury, in which the

<sup>1</sup> Prynne, Writs, i. 3, 4.    <sup>2</sup> Wilkins, Conc., ii. 20.    <sup>3</sup> Parl. Writs, i. 10.

<sup>4</sup> Report on the Dignity of a Peer, App. i, p. 59.    <sup>5</sup> Ibid., p. 67.

archbishop of York and bishops of both provinces took part:<sup>1</sup> this assembly, to which the king thought it necessary to address a letter of caution or prohibition, may not have been singular in its character, but it is insufficient as a basis for a theory of which so few traces, if any, can be found elsewhere. It is, however, so far important as to prove that, without a royal writ, the clergy, or the bishops at least, of the two provinces were not precluded from meeting in a proper council. In the extreme dearth of documentary evidence for this period, it is unnecessary to attempt to distinguish the provincial councils called by the archbishops at the king's request from those called by them *proprio motu*; the point becomes clearer and more important at a later date.

(3) The legatine councils of the period are of two kinds: (a) National ecclesiastical synods held under a native or foreign legate, who possessed the legatine authority only, which was not likely to be confounded with the proper primatial or metropolitan power. Of these assemblies there were several during the two centuries included in the period, some of which have been noticed already, e.g. those under John of Crema, Alberic of Ostia, and Henry of Blois; others, and more famous, were the councils held by Huguccione in 1176, by Otho the legate in 1237-40, by Othobon in 1268,<sup>2</sup> and some of less importance held by Rustand and other financial agents of the pope during the critical times of Henry III's reign. There is no reason to suppose that these councils were viewed with provincial jealousy, or that attendance upon them was avoided for reasons of provincial independence. The curious scene which occurred in the legatine council of 1176, when the two archbishops came in

<sup>1</sup> Wilkins, i. 682; Ann. Dunst., p. 157; M. Paris, iv. 173.

<sup>2</sup> Wilkins, Conc., i. 647, 663; ii. 1-19.



personal contact for precedence,<sup>1</sup> shows that the strife between the two provinces was not yet allayed. (b) Legatine councils held under the archbishop of Canterbury for the whole Church were viewed with great suspicion. I have mentioned one attempted by William of Corbeuil in 1127; archbishop Hubert Walter held one in A.D. 1200,<sup>2</sup> but although he was chancellor at the time, he was visited with a prohibition from the justiciar, and the archbishop of York was absent in contempt, sending no excuse for fear that his complaisance might be interpreted as a concession of the claims of Canterbury.<sup>3</sup> The legate had in 1195 held a council at York.<sup>4</sup> In 1206, during the vacancy at Canterbury, King John issued a prohibition to the whole body of the clergy, who were about to assemble at St. Albans,<sup>5</sup> possibly in response to a papal demand. The attempt to use the archbishop's legatine power in this way seems to have been futile, under the royal and provincial jealousy.

V. The period extending from the completion of the organisation of the two Convocations to the Act of the Submission of the Clergy, A.D. 1532.

During this long period, which may be characterised as the period of normal organisation, the clergy met, besides their assemblies in diocesan and subordinate meetings, personally and by representation, in synod or similarly organised assembly:—

(1) In the two provincial Convocations, summoned by the archbishops of the two provinces (a) either by their own ordinary authority and for the sole and proper consideration of matters ecclesiastical; or (b) in consequence of royal letters addressed to the two

<sup>1</sup> Wilkins, *Conc.*, i. 485.      <sup>2</sup> *Ibid.*, i. 410.

<sup>3</sup> Wilkins, i. 504, 505; R. de Diceto, ii. 169.      <sup>4</sup> R. de Diceto, ii. 146.

<sup>5</sup> Wilkins, *Conc.*, i. 514, 515.



archbishops separately, requesting them to assemble their Convocations for the consideration of matters of common interest to Church and State. These Convocations, like the less perfectly organised assemblies which preceded them, and out of which they were developed, contained the heads of the regular as well as the secular clergy. The date of the final establishment of the representative forms in the Convocations is fixed to the year 1283;<sup>1</sup> not but that there are traces of the procuratorial system much earlier, but that from that date the practice has been virtually unchanged, except when the monastic members disappeared at the dissolution, and where it has been slightly modified by the increase of dioceses and archdeaconries.

The organisation of these provincial convocations was the same under both systems of summons. Certain powers of the Crown were recognised (1) in the letters of caution or prohibition sometimes addressed to the archbishops, warning them against treating of matters dangerous to the rights of the Crown, (2) in the holding of Convocations at the request of the Crown, sometimes coincidently with the session of Parliament, and frequently in concert with, although not dependent on, the action of Parliament. When, as I will point out under the next head, the Crown had failed to obtain a representation of the clergy in the Parliament itself, the custom of requesting the assembly of Convocation became a regular part of the process of assembling the Parliament, and the taxation of the clergy in Convocation a substitute for their taxation in Parliament. But every Convocation, whether summoned by the archbishop *proprio motu* or summoned in consequence of a royal letter, was competent for all sorts of work, whether taxative or

<sup>1</sup> Select Charters, pp. 453-55, 466, 467.

legislative ; and, as the demand for money grants was a much more frequent occasion than the demand for canons or constitutions, the Convocations summoned for royal business were much more numerous than those called by the archbishops of their own proper motion. The distinction, although strongly insisted on by the investigators of Convocation history under William III and Anne,<sup>1</sup> is of minor importance in reference to the point now before us ; but it has some bearing still on the interpretation of the first Article of the Submission.

I find no trace of any attempt made either by the Crown or by the archbishops to unite the Convocations proper for joint session or discussion.<sup>2</sup> The archbishops contented themselves, so far as secular matters went, with their joint action in Parliament, and in ecclesiastical legislation did not interfere with one another, after the ancient jealousy was extinguished. The kings, on the other hand, possessed, in the right of summoning the clergy in the bishops' writs, the power of bringing together the two provinces without the trouble of calling Convocation, and, after that practice was disused, acquiesced in the action of the provincial assemblies. As a result, when co-operation was required it was easily managed : a royal letter explaining the amount of the Canterbury grant was sufficient to evoke the liberality of the York clergy :<sup>3</sup> the archbishops occasionally agreed on similar action in their two synods ; and occasionally legislated without any regard to the needs or action of one another. In most

<sup>1</sup> Wake, *State*, etc., pp. 25-29.

<sup>2</sup> In 1409-10 the Archbishop of York and Bishop of Durham sat in the Canterbury Convocation, Feb. 17 ; but the York Convocation was in session in the north, having been summoned for the 15th.—Wilkins, *Conc.*, iii. 325, 333 ; Wake, *State*, etc., p. 348.

<sup>3</sup> Examples in 1377, 1382, 1398 ; Wilkins, *Conc.*, iii. 125, 126, 176, 205, 238.

matters York followed Canterbury,<sup>1</sup> and in 1462<sup>2</sup> adopted in mass the Constitutions of the Southern province in all matters in which they did not conflict with the customs and canons of the Province of York.

(2) Besides their assemblies in the provincial Convocations, the clergy had their place in Parliament; according to the system introduced by Edward I, and intended to give a definite and formal character to the attendance of the clergy in the assembly of the three estates, a system of which a reminiscence survives in the form of writ by which the bishops are summoned to Parliament. Every bishop, in his summons, is required to warn the dean and chapter of his cathedral, his archdeacons and clergy, to appear, the deans and archdeacons in person, the chapter and clergy by proctors, in the Parliament itself. This parliamentary assembly of the clergy was organised without reference to provincial organisation, (*a*) by direct writ addressed by the Crown to the several bishops, not, as in case of Convocation, by writ from the archbishop, issued in consequence of a request by the Crown, and forwarded to the suffragans by the provincial dean; (*b*) they were to be warned to appear at Westminster, or wherever else the Parliament was called, not as the Convocations were, at S. Paul's and York; and (*c*) the regular clergy were not included among the classes so summoned.

This assembly of the clergy of the two provinces met from time to time from the year 1295 onwards, but often with a strong remonstrance.<sup>3</sup> The whole body of the clergy objected to a summons proceeding from a secular court, and the clergy of the province of York especially remonstrated against being summoned out-

<sup>1</sup> As in the negotiations on the schism in 1408 and 1414; *ibid.*, pp. 306, 370, 380, etc.

<sup>2</sup> Wilkins, *Conc.*, iii. 580, 663.

<sup>3</sup> *Parl. Writs*, II. i. 196, etc.



side the province.<sup>1</sup> To obviate the objection, the Crown for several years from 1314 to 1340 issued letters of urgent request to the two metropolitans for the enforcement of the parliamentary summons on the clergy.<sup>2</sup> But this failed to secure attendance, and after the latter date, as indeed during the whole period, the clergy were allowed to dispatch in the Convocations the business, which was chiefly financial—the granting of tenths and subsidies—which was intended to be transacted by their representatives in Parliament. The parliamentary writ however continued unchanged ; on more than one occasion the action of the parliamentary proctors was put forward as necessary for the validity of parliamentary acts : many instances can be adduced of the election of such proctors distinct from the elections to the Convocations ;<sup>3</sup> and the tradition, which subsisted at the time of the Reformation, that this parliamentary assembly of the clergy was properly adjunct to or associated with the House of Commons, may be thought to be warranted by one or two slight indications of co-operation or inter-communication traceable to the Rolls in Parliament.

In this parliamentary assembly there might have been complete joint action of the clergy of the two provinces, but it would not, under the circumstances of the summons, have been a joint session of the Convocations. It is, however, important to observe how very closely these two contrasted bodies might be brought together, and how easily their character and constitution might be confused. Thus : as the practice of voting subsidies in Convocation became

<sup>1</sup> Wilkins, *Conc.*, ii. 546 ; Raine, *Letters from Northern Registers*, pp. 344, 345 : “ *Idem clerus apud Lincoln extra provinciam nostram non tenebatur comparere.* ”—Archbp. Melton.

<sup>2</sup> *Const. History*, iii. 345.

<sup>3</sup> Atterbury, *Rights, etc.*, Add. pp. 81-93 ; Wake, *State, etc.*, App. pp. 226, 227.



recognised as regular, the direct association of the provincial Convocations with the Parliaments became a matter of course, and Convocation was summoned as regularly as the Parliament, although, for form's sake, not coincidently or dependently. So long as the duration of a Parliament was limited to a single session, there would be an annual election to the House of Commons, and so also an annual election of proctors to Convocation as well as to the Parliament : after the adoption of the rule of prorogation, by which the House of Commons continued without re-election for several years together, the Convocations were prorogued in the same way. In the province of Canterbury, where the custom of returning two proctors only for each diocese prevailed, it would be natural and economical to return the same persons as proctors for both Convocation and Parliament, and this was certainly common in the case of the proctors for the chapters. Thus it may, I think, be plausibly maintained that, notwithstanding the radical and constitutional difference between the two bodies, there existed, so far as the province of Canterbury was concerned, a great probability of confusion, or practical identification between them : which may further on help to the understanding of the proceedings taken under the critical circumstances of the reign of Henry VIII.

(3) As in the preceding period, the whole body of the clergy of both provinces might be assembled under a papal legate, whose commission superseded or was supposed to supersede the authority of the metropolitans. Such assemblies were however neither numerous nor important, and occasionally amount to little more than formal meetings to hear the message of the papal ambassador : examples occur in 1312, when Cardinal Arnold of S. Prisca summoned the bishops of both provinces to meet at London ; and in

1408, when the Archbishop of Bourdeaux summoned a Legatine Council of England, Scotland, and Ireland at London in contemplation of the General Council at Pisa. As the summons for the Council of 1312 was addressed by the legates to the bishops direct,<sup>1</sup> it is not probable that the inferior clergy were assembled, or that the meeting at all answered the idea of a National Synod. That of 1408 seems to have been superseded by papal orders.<sup>2</sup> By far the most important example of this practice, however, is of later date. In the year 1518 Cardinal Wolsey by virtue of his legatine commission summoned the whole body of the bishops to meet at Westminster, superseding a general assembly of the bishops of the province of Canterbury which archbishop Warham had called to Lambeth.<sup>3</sup> This was followed up in the year 1523 by a distinct attempt to unite the two Convocations in a National Synod. The two Convocations were summoned to their usual places of meeting, in consequence of a royal letter dated Feb. 6, by Warham on the 7th of February; and by Wolsey as archbishop of York, Feb. 28; to meet at London on April 20, and at York on the 22nd of March. Both Convocations on the day of meeting were immediately adjourned to Westminster on April 22. To this proceeding objections were immediately raised; the proctors of the Canterbury clergy, having no commission to treat in such a synod, went back to S. Paul's, and the Cardinal had to issue a new summons on the 7th of May, for them to meet, with proper powers, on the 8th of June, a date subsequently changed to the 2nd. Very little indeed is known of what was done in the joint sittings, but they appear to have been continued until the middle of August; on the

<sup>1</sup> Raine, *Letters from Northern Registers*, p. 212; *Regist. Palatinum*, i. 220, 221; Wilkins, *Conc.*, ii. 421.

<sup>2</sup> *Eulogium*, Cont., iii. 413.

<sup>3</sup> Wilkins, *Conc.*, iii. 660.

14th the Convocation of Canterbury granted their subsidy in their own house, on the 17th the Convocation of York was prorogued from Westminster Abbey to York House (Whitehall), as a place under the ordinary jurisdiction of the archbishop of York, and made the grant on the following day.<sup>1</sup>

In connection with this point it may be as well to dismiss the mention of Cardinal Pole's Legatine Synod held in 1555. It was summoned by the Cardinal as legate, in consequence of royal letters dated Nov. 2, by a mandate dated on the 6th and forwarded to the prelates of the province of Canterbury on the 10th; the representation of the chapters and clergy is to be by one proctor only. The Convocation of Canterbury was sitting, having met on the 22nd of October: the Legatine Synod met on the 2nd of December, and sat by prorogations until Nov. 10, 1557. It is difficult with our forthcoming materials to disentangle the business of the Legatine Synod from that of the Convocations, but it seems certain that the York clergy were present in the Synod and joined in the grant which was subsequently collected under the cardinal's authority as voted in the Synod itself.<sup>2</sup>

VI. The period extending from the date of the Submission of the Clergy to the present day.

By the solemn act of the clergy executed in the Convocation of Canterbury on the 15th of May, 1532, and accepted, as it would seem, without any formal vote by the clergy of the Northern province, it was declared that the Convocation "is, always hath been, and must be, only assembled" by the king's commandment of writ.<sup>3</sup> And this in the Statute of Submission,

<sup>1</sup> Wilkins, *Conc.*, iii. 698-701.

<sup>2</sup> *Ibid.*, iv. 130, 131, 151. Wake, *State of the Church*, pp. 496-499; App. pp. 228-230.

<sup>3</sup> Wilkins, *Conc.*, iii. 754.



25 Hen. VIII, c. 19, is so far recognised as a matter of fact and law that the Convocations in time coming "always shall be assembled by auctorytie of the King's writ."

It is unnecessary for our present purpose to define exactly the amount of truth conveyed in the statement that Convocation is and always hath been so assembled ; for it is easy to refuse the name of Convocation to such provincial councils as the metropolitans had convened without such commandment, although in every respect the constitution was the same and the powers equivalent. It is clear that, from the passing of the statute, no such assembly could be called conformably with the law of the land, except by command of the Crown. It is however a matter of question whether the close association of the Convocations with the sessions of Parliament is so much a matter of constitutional law, that the royal command or licence could not be given for the summoning of the provincial assemblies irrespective of the calling of Parliament. Archbishop Wake, who was by no means wedded to ecclesiastical privilege or to high monarchical theory, was of opinion that it might be done.<sup>1</sup> In that case considerable developments might safely be allowed in the constitution and procedure of the assemblies in question. But without a royal command, no precedent from the earlier history could warrant the summoning of such Convocations. I am not, however, prepared to admit that, considering the wide language of the royal instructions, the archbishops have no power to modify the forms of summons and election from time to time, provided the terms of the instructions are substantially observed.

And I think that it is, on the whole, irrelevant to attempt to distinguish between the Convocations that

<sup>1</sup> *State of the Church*, p. 29.



were capable of making canons and those that were called mainly for the purpose of money grants: the latter object having now become obsolete, and the direct purpose of the Submission being the restriction of legislative action. The Act and Statute of Submission must be understood as ruling all cases that, by any equitable consideration, can be brought under the head of Convocations or Provincial Synods.

With this preamble, we may divide the period before us into three parts or sections: (1) from 1532 to 1664, when the Convocation ceased to be called on to vote subsidies; (2) from 1664 to 1717, when it ceased to sit for dispatch of business; and (3) from the latter date, through the revival of the present century, to the present time.

But, before attempting to distinguish and define the means taken for securing joint action of the Convocations between these dates, it may be as well to dismiss the subdivisions of our inquiry used in examination of the previous periods:—

1. There is no instance, during the whole period, of a joint sitting of the two Convocations under the normal conditions of provincial councils summoned in compliance with the royal writ. Such instances of joint action, as are sometimes alleged as such joint sittings, may be examined in the next stage of inquiry.

2. The assembly of the estate of the clergy in Parliament, under the *praemunientes* clause in the bishops' writs of summons, has not been enforced or permitted, during the whole period, although the words directing such an assembly are still retained in the writs. At different times elections have been made of proctors to serve in Parliament, and the powers of the Convocation proctors have occasionally been made to include the parliamentary attendance as well. In the year 1547 the Lower House of the Convocation of Canterbury

presented a bill of petition "that it might be assumed and co-opted into the lower house of Parliament as had been the custom from old times."<sup>1</sup> But no notice seems to have been taken of the proposal; and if it had come before the Crown or Parliament, it would probably have received the answer which appears to have been given in Ireland to a similar claim, that although two proctors from each diocese had been used and accustomed to be summoned and warned to be present at each Parliament, they "were never by order of the law, usage, custom or otherwise, any member or parcel of the whole body of the Parliament, nor have had of right any voice or suffrage in the same, but only to be there as counsellors and assistants to the same, and upon such things of learning as should happen to be in controversy, to declare their opinions, much like as the Convocation within the realm of England is commonly at every Parliament begun and holden by the king's highness's special licence."<sup>2</sup> The statement contained in this answer probably represents the current idea of the relation of Convocation to Parliament, as well as of the indistinct or confused relations of the parliamentary and provincial assemblies of the clergy.<sup>3</sup> It may be necessary to recur to this point.

3. No claim has ever been made, so far as I am aware, on the part of the Crown under the Act of 25 Hen. VIII, c. 19; 26 Hen. VIII, c. 1, or 1 Eliz., c. 1; or on the part of the Crown and archbishop of Canter-

<sup>1</sup> Wilkins, *Conc.*, iv. 15.

<sup>2</sup> Irish Acts, 28 Hen. VIII, c. 12; Mant, *Hist. of the Church of Ireland*, ii. 157.

<sup>3</sup> "An Act against Proctors to be any member of the Parliament." Rot. Parl., cap. 19, Statutes of Ireland, vol. i, p. 102. The Act declares that such proctors are not member or parcel of the body of the Parliament, shall not give any voice, opinion, assent, or agreement to any Act, provision, or ordinance; their voices, assents, agreements, or opinions are not to be necessary to any such Act; any such Act shall be valid without or contrary to their agreement, etc., etc.

bury under the Act of Dispensations, 28 Hen. VIII, c. 16, to exercise the authority which has been described as *legatine*, for the purpose of calling national Church councils.

In theory, and considering the various methods by which at different times the co-operation of the two Convocations has been secured, the following modes of action suggest themselves ; they may be here enumerated for reference in the brief chronological summary which is added.

1. Joint sittings of the two Convocations in one assembly.

2. Direct communication between the two Convocations, each sitting in its proper place of meeting.

3. The adoption by one Convocation of the resolutions passed by the other, with or without discussion and alteration.

4. The participation of the Upper House of the Convocation of York with the deliberations and acts of the Convocation of Canterbury.

5. The representation of the Lower House of the Convocation of York in the proceedings of the Convocation of Canterbury, by proxy or deputation.

6. Co-operation by joint committees of the two Convocations, with power to treat, referring all conclusions back to the Convocations for confirmation.

7. Co-operation by delegations or proxies of both Convocations with full powers to treat and conclude.

8. The coincident treatment of similar points of deliberation in independent and unconcerted action, may be added, although strictly-speaking, it can hardly be called co-operation.

#### CHRONOLOGICAL SUMMARY I. A.D. 1532-1664.

A.D. 1531. The Convocation of Canterbury recognises the royal headship and makes its grant, March 22 ;



the Convocation of York does the same on the 4th of May.<sup>1</sup>

A.D. 1532. The Convocation of Canterbury passes the articles of the Submission, May 16. The Convocation of York had made their money grant Feb. 7; but nothing is known of any proceedings there on the matter of the Submission.<sup>2</sup>

A.D. 1533. The Convocation of Canterbury votes and decides on the two questions touching the validity of the king's marriage, April 5: that of York does the same, May 13.<sup>3</sup>

A.D. 1534. The Convocation of Canterbury replies to the royal question on papal authority, March 31; the Convocation of York does the same, May 5-June 2, after several days' session and mature deliberation.<sup>4</sup>

A.D. 1536. The Convocation of Canterbury subscribes ten articles of faith, July 11; and with them the archbishop of York and the bishop of Durham. In this case we find two chief members of the Upper House of York acting with the southern Convocation.<sup>5</sup> As there is no extant summons of the York Convocation this year, and as the Chapter of York elected proctors under the parliamentary writ, it might be supposed that there was a possible joint action in the case.<sup>6</sup> But on examination it appears that an answer of the York Convocation to the questions on the ten articles is extant,<sup>7</sup> which from its reference to the Dispensation Act which became law in July, and its mention of Michaelmas as still future, must have been drawn up in the autumn, and proves that the York Convocation sat at the time.

"The Institution of a Christian Man," issued in 1537 and known as the Convocation Book, is prefaced by

<sup>1</sup> Wilkins, Conc., iii. 742-45.

<sup>2</sup> Ibid., iii. 754, 748.

<sup>3</sup> Ibid., iii. 757, 765.

<sup>4</sup> Ibid., iii. 769, 782.

<sup>5</sup> Ibid., iii. 822.

<sup>6</sup> Atterbury, Rights, etc., Addenda, 82.

<sup>7</sup> Wilkins, Conc., iii. 812. Strype, Eccl. Mem., i, App. 179.



an address to the king from both the archbishops, and all other bishops, prelates, and archdeacons of the realm, signed by the archbishop of York, the bishops of Durham and Carlisle, and the archdeacons of Richmond and Nottingham. As however no Convocation was held in 1537 the book must be regarded as the outcome of the proceedings of 1536, and possibly of a joint committee.<sup>1</sup>

A.D. 1539. The Bill of Six Articles was laid before the Convocation of Canterbury, June 2 and 5.<sup>2</sup> The Act passed on this Bill declares in the preamble that the articles had been referred to a "synod and convocation of all the archbishops, bishops, and other learned men of the clergy" of the realm.<sup>3</sup> The Convocation of York had been summoned for the same day as that of Canterbury, May 2; and capitular proctors had been elected on the 2nd of April for Convocation and on the 9th for Parliament. The action, however, of the Convocation of York is otherwise unknown.<sup>4</sup>

A.D. 1540. On the 6th of July the king's ministers laid before the House of Lords certain doubts as to the validity of his marriage with Anne of Cleves. The Lords temporal agreed to consult the Commons and, with a joint committee of the Commons, requested the king to allow the matter to be determined by archbishops, bishops, deans, archdeacons and the whole clergy of England now convoked to this Parliament.<sup>5</sup> These words literally interpreted must mean the assembly of the clergy convoked by the parliamentary writ of the bishops. The king, however, in his reply signified that the cause should be committed to the Convocations of the two provinces,

<sup>1</sup> Wilkins, Conc., iii. 830, 831.    <sup>2</sup> Ibid., iii. 845.

<sup>3</sup> 31 Hen. VIII, c. 14.    <sup>4</sup> Wake, State, etc., App. pp. 226, 227.

<sup>5</sup> Lords' Journals, July 6.

and letters patent were issued declaring the royal will that the archbishops, bishops, deans, archdeacons, and whole clergy should be convoked and come together "in synodum universalem."<sup>1</sup> The writ was dated July 6. On the following day the synod met,<sup>2</sup> containing, besides the prelates and clergy of the Southern province, the archbishop of York, the bishops of Durham and Carlisle, the dean of York, and five archdeacons of the province, with a large number of the clergy also. On the 8th the whole body considered the conclusions drawn up by a committee formed on the previous day, and on the 9th subscribed the document which contained their answer.

It is, I think, clear from these details that such a precedent is of no value except as a proof of the king's belief in his own powers. No real union of the Convocations was effected; the time was too short for even the news of the summons to be sent to York, where the Convocation had been sitting in 1539; and, although the two provinces were in a fashion represented in the synod by the clergy who were in London at the time, it was not in the capacity of representatives in Convocation, or as properly qualified substitutes for such representatives. But, although this is of no value as a constitutional precedent for the joint sitting of the Convocations, it is important as showing that the Crown was supposed to have the power of summoning, or directing the summons, or committing questions to the consideration of a "universal synod" of the clergy.

The Subsidy Act, 32 Hen. VIII, c. 23, refers to a contingent subsidy from the Convocation of York; the Canterbury grant was made on the 14th of April.<sup>3</sup>

The remaining years of Henry's reign furnish no

<sup>1</sup> Wilkins, *Conc.*, iii. 853; Strype, *Ecel. Mem.*, i, App. p. 306.

<sup>2</sup> Wilkins, *Conc.*, iii. 851-55. <sup>3</sup> *Ibid.*, iii. 850.

illustrations of the action of the York Convocations, except in the matter of subsidies, in which the example of the province of Canterbury was proposed and followed.<sup>1</sup> The names of the members of the York Convocation are given by Wake, *State of the Church*, App. p. 242, for the session of 1545-46.

A.D. 1549. Edward VI, in his letter to Bonner dated July 13, asserts that the Order of Common Prayer had been approved not only by the Lords and Commons in Parliament, but also "by the like assent of the bishops in the said parliament and of all other the learned men of this our realm in their synods and convocations provincial."<sup>2</sup> The records of the two Convocations afford little in illustration of this statement;<sup>3</sup> in 1547, Nov. 22,<sup>4</sup> the Lower House of Canterbury had proposed that the labours of the bishops and others on the service book should be laid before them, and in a later session the Communion in one kind was adopted, but no reports of the proceedings in the Convocation of York have been preserved.

A.D. 1552-53. The records of the Convocations throw no light on the proceedings on the forty-two articles agreed on by the bishops and learned men "in synodo Londinensi;"<sup>5</sup> or on the revision of the Book of Common Prayer. They contain mere notices of summons and prorogations, with occasional mention of subsidies. It is clear however, from the letters of the foreign reformers<sup>6</sup> of the year, that discussion was going on in the Convocation of

<sup>1</sup> Wilkins, *Conc.*, iii. 862, 877.

<sup>2</sup> In a similar form in St. 5 and 6 Edw. VI, c. 12, the consent of "Convocation" to the lawfulness of the marriage of priests is adduced. This determination was carried in the Lower House of Canterbury, Dec. 17, 1547, by 53 votes to 22. Wilkins, *Conc.*, iv. 16.

<sup>3</sup> Wilkins, *Conc.* iv. 35.    <sup>4</sup> *Ibid.*, iv. 15, 16.    <sup>5</sup> *Ibid.*, iv. 73.

<sup>6</sup> Original Letters, second portion, pp. 444, 450, 452.



Canterbury on reforms, and that the archbishop of York was employed in the transactions ; but it is most likely that all details were settled by committees or mixed bodies of lawyers, scholars and divines, nominated by the king, probably in concert with the sitting of Convocation which must be meant by the "*synodus Londinensis*."

A.D. 1555. The legatine council held by Cardinal Pole has been noticed already. The records of the reign of Mary throw no light on the details of proceedings in the Convocation of York.

A.D. 1563. The XXXIX Articles of Religion having been approved by the Convocation of Canterbury, in their sittings Jan. 19–29, were subscribed on that day by the bishops of the Upper House, and by the archbishop of York with the bishops of Durham and Chester ; and on the 5th of February by the Lower House, in which, however, no members of the Convocation of York are found.<sup>1</sup> These Articles were published in the same year, as agreed on "*in synodo Londinensi*,"<sup>2</sup> and are described in the schedule in which they were brought to the Lower House as transmitted by the archbishop of Canterbury and the bishops of the Province of Canterbury. But in the heading of the attestation by the bishops they describe themselves as "*archiepiscopi et episcopi utriusque provinciae regni Angliae*," and yet "*in sacra synodo provinciali legitime convocati*." It is not clear whether they were submitted formally to the Convocation of York which sat from Jan. 12, by prorogations during a great part of the year.<sup>3</sup> Nothing is said about them in the records, but a subscription of the several members, like that of the Southern Convocation, may easily have taken place.

<sup>1</sup> Wilkins, *Conc.*, iv. 233–238.

<sup>2</sup> Articles, ed. Lamb, p. 20.

<sup>3</sup> Wilkins, *Conc.*, iv. 243.



A.D. 1571. The XXXIX Articles were published in English as "Articles whereupon it was agreed by the archbishops and bishops of both the provinces, and the whole clergy in the Convocation holden at London" in 1562: a description which fairly interpreted may be understood to mean the bishops of both provinces and the clergy of the Convocation of Canterbury. The translation was subscribed May 11, 1571, by eleven bishops of the Province of Canterbury, with the heading, "We the archbishops and bishops of either province of this realm of England, lawfully gathered together in this provincial synod holden at London," although no bishop of the Northern province subscribes. But as in the same Convocation of Canterbury a code of canons in six sections was subscribed on the 3rd of April by the archbishop of Canterbury as proxy for his brother of York, by the bishop of Worcester as proxy for the bishop of Durham, and by the bishop of Chester,<sup>1</sup> the omission of the subscriptions to the Articles is probably accidental. Neither articles nor canons are mentioned in the jejune records of the York Convocation, although the grant of the subsidy is duly noted.<sup>2</sup> The copy of the Articles of 1571 printed by Cardwell, from Jugge and Cawood, adds as a 40th Article the note that they were confirmed by the subscription of the hands of the archbishop and bishops of the Upper House, and by the subscription of the whole clergy of the Nether House in their Convocation.<sup>3</sup>

A.D. 1597. A body of canons drawn up by the Convocation of Canterbury in 1584, and printed with the queen's approbation, was reissued with amend-

<sup>1</sup> Articles, ed. Lamb, p. ult.; Wilkins, *Conc.*, iv. 261.

<sup>2</sup> Cardwell, *Syn.*, i. 131; Wilkins, *Conc.*, iii. 268, 270.

<sup>3</sup> *Synod.*, i. 106.

ments by the Convocation of 1598, with the royal confirmation under the Great Seal for the government of both the provinces.<sup>1</sup> In that Convocation on the 25th of January the archbishop produced the royal licence in letters patent containing the canons and constitutions, and dated Jan. 18.<sup>2</sup> The Convocation of York had met at the same time with that of Canterbury, Oct. 25, 1597 ; but records nothing beyond the subsidy and the prorogations.<sup>3</sup> The canons and constitutions therefore, although formally enacted by the Convocation of Canterbury, were confirmed and made applicable to York by the queen's sovereign authority.

A.D. 1604. The new code of canons and constitutions was passed by the Convocation of Canterbury acting under the royal licence produced on the 13th of April ; and, having received the royal authority under the Great Seal, was published to be observed in both provinces.<sup>4</sup>

A.D. 1606. The Convocation of York on the 5th of March received the royal licence to make canons, dated Feb. 18 ; and on the 19th of March decreed and ordained that the canons and constitutions passed in the Convocation and published with the royal authority for both provinces should be observed in the province of York.<sup>5</sup>

A.D. 1640. The book of canons and constitutions of A.D. 1640 was passed by the Convocation of Canterbury under powers conferred by the royal licences received April 17 and May 13, and subscribed on the 29th of May. The Convocation of York received the licences on the 5th and 29th of May, and read the canons and constitutions on the 5th of June. They received the royal confirmation on the 30th of June, and are then described as having been treated of,

<sup>1</sup> Wilkins, *Conc.*, iv. 352.

<sup>2</sup> *Synod.*, ii. 147-61.

<sup>3</sup> Wilkins, *Conc.*, iv. 357.

<sup>4</sup> *Ibid.*, iv. 379.

<sup>5</sup> *Ibid.*, iv. 426-28.

concluded, and agreed upon by both the Convocations.<sup>1</sup>

A.D. 1661. The review of the Book of Common Prayer was referred by the king to the Convocation of Canterbury by letters received on the 21st of November. On the 20th of December the Book so reviewed was subscribed by both Houses and by the proxies of the Convocation of York.<sup>2</sup> The Convocation of York had on the 30th of November received a royal letter dated Nov. 22, authorising them to review the Book ; and therewith a letter from the archbishop and bishops of the province, dated Nov. 23, and requesting the Lower House to give a proxy on their behalf to the deans of S. Paul's and Westminster with others, to give their consent to the proceedings of the Convocation of Canterbury.<sup>3</sup> This was done on the 30th, and letters of proxy were given to the deans of S. Paul's, Westminster, Ely, and Chester, the archdeacon of Leicester, Dr. Smallwood proctor of the clergy of Chester and Richmond, Andrew Sandiland proctor of the East Riding, and Humfrey Floyd proctor for the chapter of York, who subscribed the revised Book on behalf of the Lower House of the Convocation of York.

During the session of the Convocation of Canterbury the archbishop of York, and the bishops of Durham, Carlisle, and Chester, had sat with the Upper House on several occasions, as June 21, July 3, Dec. 5, Dec. 19 ; and on the 13th of December the Convocation of York sent up a series of six articles or propositions<sup>4</sup> drawn up by Dr. Samwaies proctor for the clergy of Chester and Richmond to the archbishop and

<sup>1</sup> Wilkins, *Conc.*, iv. 538-44, 553 ; Cardwell, *Synod.*, i. 380-415.

<sup>2</sup> Wilkins, *Conc.*, iv. 566.

<sup>3</sup> *Ibid.*, iv. 567-69 ; Wake, *State, App.*, pp. 238-41.

<sup>4</sup> Cardwell, *Synod.*, ii. 646, 648, 655, 659.



bishops resident in London, to be communicated if they thought fit to the Convocation of Canterbury.<sup>1</sup>

#### CHRONOLOGICAL SUMMARY, II. A.D. 1664-1717.

From the date at which the clergy ceased to make their own grants in Convocation, the records of the York Convocation contain nothing but the dates of meetings, prorogations, and dissolutions; and we have no present means of ascertaining whether the proceedings of the Canterbury Convocation, in the more important years of William III and Anne, were accompanied by any corresponding action in the North. Of joint action there is no trace. And in fact the only forthcoming evidence as to the vitality of the York Convocation seems to be the fact that in the year 1704, on the occasion of the presentation of an address to the Queen, expressing the gratitude of the Convocations for her promise of the Bounty, archbishop Sharp of York not only presented the address of the Convocation of Canterbury, as deputy for the archbishop, on the 15th of February, but also presented an address of his own Convocation on the last day of the same month. Archbishop Sharp was active as mediator between the conflicting parties in the Canterbury Convocation in 1703<sup>2</sup> and had a considerable share in arranging the business of the sessions of 1710 and the following years,<sup>3</sup> a fact which makes the apparent lethargy of his own synod more remarkable. It is needless to add that the York Convocation, although it does not seem to have shared in the offence given by Canterbury, shared the punishment of suspension and practical suppression until its revival in the present reign.

<sup>1</sup> Wilkins, *Conco.*, iv. 569.

<sup>2</sup> Life of Abp. Sharp, i. 344-46.

<sup>3</sup> *Ibid.*, 351.



## CHRONOLOGICAL SUMMARY, III. A.D. 1717-1887.

Under this head it is impossible to state more than the following well-known facts:—

1. The employment of joint committees of the two Convocations has been found very useful since the revival of Convocation, but has not received any such formal and constitutional recognition as would make it a distinct step in the process of canonical legislation.

2. The instances in which the Crown by letters of business and licence to make canons has recognised the position of the Convocations, under the conditions arising from the Submission of the Clergy, during the present reign, contemplate the existence of the two Convocations as independent bodies, without any obligation of co-operation, or necessity of unanimous opinion.

3. The proposals of the archbishop of York, for the co-operation of the two Convocations, by formal delegations, would have the effect of giving a distinct and constitutional character to the proceedings now carried on by joint committees: but this expedient would not bind the two Convocations together in such a way that the conclusions, or the process by which the conclusions were arrived at, could be regarded as a solid act of the whole representative body of the Church. Here, however, I am speculating on a speculation, in a way which properly belongs to the concluding section of this memorandum.

Before proceeding to the very brief generalisations and conclusions which can be drawn from the foregoing details, I will call your Grace's attention to the amount of illustration which the History of the Irish Church affords to the subject before us, both as regards the powers of the Crown to deal with the Church for the purpose of a National Synod, and as to the expedients

for the exercise of such powers, which were used on critical occasions.

The Irish Church was divided into four provinces, each under its own metropolitan ; the primacy, after having been long in dispute between Armagh and Dublin, being finally assigned to the former. Before the Reformation each of these provinces had its own synod, and except under the occasional summons of a papal legate, into which there is no reason now to look for details, nothing like a general synod was practicable. On the English model, however, the writs of summons to the Irish Parliaments, which were directed to the bishops, contained the *Praemunientes* clause, and might be construed as a warrant for the assembling of the whole body of clergy, irrespective of their provincial organisation, for financial and other purposes in connection with the Parliament.

No attempt at constituting a Convocation of the four provinces seems to have been made before the year 1613 ; and for information respecting that assembly and the later Convocations I must content myself with the following notes of the Bishop of Down and Connor, who has kindly furnished me with information.

“The Irish Convocation met May 24, 1613, concurrently with Parliament. Four Provincial writs were issued to the four archbishops, who with their suffragans respectively, and with their Lower House of clergy respectively, met and sat conjointly in one House, and except in the matter of subsidy, wherein each province had a several levy and payment, deliberated in one assembly.”<sup>1</sup> Unfortunately the writs are not preserved, but the facts are clear from the words of the return made by Archbishop Hampton on the 28th of April, 1615 : “*Praelati et clerus nostrae Armachanae provinciae una cum aliarum hujusce ecclesiae*

<sup>1</sup> See also the Irish Canons in Wilkins, *Conc.*, iv. 447 sq.

Hibernicae respective provinciarum praelatis et cleris in sacra sinodo generali sive Convocatione vigore et auctoritate brevis vestri regii nobis directi in ecclesia Cathedrali ut vocatur divi Patricii Dublinensi, die xxiv<sup>to</sup> mensis Maii . . . inchoata," etc.

"Parliament was dissolved 24 Oct. 1615, and was not reassembled until July 14, 1634. On May 24, 1634, writs were issued to the four archbishops requiring them to cause respectively their suffragans, deans of cathedral churches, and the whole clergy of their provinces to appear before them in the cathedral church of S. Patrick of Dublin, or elsewhere as may seem fit to them, on the 21st of July, i.e. seven days after the meeting of Parliament.<sup>1</sup>

"Parliament again met May 8, 1661. The provincial writs for the Convocation had been issued to the four archbishops on March 26, and the body assembled in S. Patrick's Cathedral, Friday, May 10.

"Soon after the accession of Queen Anne, the [parliamentary] writs [of the bishops] were about to be issued, omitting the *Praemunientes* clause; but some of the bishops wrote to the Duke of Ormond and succeeded in procuring its insertion. [The provincial writs having apparently been forgotten.] Upon this the elections took place, and a number of clergymen met in Dublin, Sept. 21, 1703. But it was found that they were incapable of incorporation or discussion. So the bishops on the 7th of October applied for the provincial writs as on previous occasions, which were at length granted, and the clergy, 159 in number, met at S. Patrick's Cathedral, Jan. 11, 1704, as the Lower House of Convocation or National Synod."<sup>2</sup> The

<sup>1</sup> See Wilkins, *Conc.*, iv. 496-98.

<sup>2</sup> Mant, *Hist. of Irish Church*, ii. 160. Wilkins, *Conc.*, iv. 632, 633. Ware's *Ireland* (ed. 1705), pp. 164 sq. [A dean, capitular proctor, archdeacon, and two proctors from each distinct diocese.]



queen's letter to the Irish archbishops corresponds exactly with those issued to the English Metropolitans *mutatis mutandis*, except in so far as all are to cite their clergy to S. Patrick's. The precedent was followed in 1869.

The only conclusion that can be drawn from these details is that the lawyers of the seventeenth and eighteenth centuries saw nothing unconstitutional in a royal writ directing the assembling of four provincial synods in one place. It may, however, be objected that such an assembly was not the junction of four independent and separate Convocations.

I have now to refer the more important cases of precedent, contained in the preceding summary, to their places in the list of alternative methods of joint action drafted above:—

1. There are no cases of complete joint session of English Convocations: the case of 1540 is not in point. But the case of the National Synod of Ireland furnishes a valuable example.

2. There has been apparently direct and formal communication between the two coincident Convocations as in the action of the year 1661; but the most frequent cases of such communication are found in the transaction of subsidy business with which I have not thought it necessary to deal.

3. Cases in which one Convocation has adopted the resolutions of the other will be found under the years 1531, 1533, 1606.

4. Cases in which the members of the Upper House of York have sat and transacted business in the Convocation of Canterbury will be found in 1536, 1563, 1571, and 1661. These might be multiplied probably to a very large extent; as, the Convocations of modern times being generally called coincidently with the Parliaments, the Northern bishops were usually



present in London, and the Convocation of York was managed by the archbishop's commissaries.

5. The case of proxy or deputation from the Lower House of York to the Lower House of Canterbury is unique, that of 1661.

6. The examples of co-operation by joint committees are of modern use, and detail on them is unnecessary.

7. Co-operation by delegations with full powers has not been tried.

8. Coincident treatment of similar points in independent debate may be illustrated by the proceedings of 1534, on the canons of 1640, and on the revision of 1661.

The expedient of queen Elizabeth's reign, by which canons were debated and passed in the Convocation of Canterbury, and then by royal power published for both Provinces, is a case of supersession of the need of joint action.

I very much fear that your Grace will consider this a very small residuum of practical knowledge: it contains, I think, nothing new; and such use as it may have can only be to dispel illusions.

My own conclusion must be very succinct indeed:—

1. I am unable to see that the two archbishops, singly or conjointly, can by their ordinary power either assemble the two Convocations in a National Synod, or bring them together for a joint sitting, or assemble any bodies of the same constitution and character, in consistency with the Submission of the Clergy and the Act of 25 Henry VIII, c. 19. I believe that there is no precedent for the exercise of such power, and cannot believe that the conclusions of such an assembly, if brought together, would carry more legal weight than those of the Central Council of Diocesan Conferences.

2. I am inclined to believe that the Crown has the

power to issue letters of request, or commandment of writ, to the two archbishops, authorising the assembly of the synods of the two Provinces in one place, as was done in the case of the Irish Convocations, and as Henry VIII assumed to do in 1540 ; and I believe that the collection of such a synod would be a just fulfilment of the 139th canon. I also think that this might be done without parliamentary authority, although I am not sure that any minister of the Crown would authorise the issue of such writs in the face of any considerable opposition. I believe further that no legal defect would arise from the fact that the summons of the archbishop of York might cite his Convocation to London, or that of the archbishop of Canterbury might cite his Convocation to York ; notwithstanding the arguments which might arise on the precedent of objection made by the clergy of York to the parliamentary summons of 1327, or the proceedings of Cardinal Wolsey in 1523 ; or on the idea of the illegality of extra-provincial summons in general. But I do not think that the Irish precedent, or any incidental illustration hitherto adduced, would warrant joint sittings of the two Convocations duly summoned to York and to S. Paul's, unless some provision to that effect were made in the writ by which the Convocations were summoned in the first place : I think that the joint sitting would require a writ of its own.

I am afraid that your Grace may regard this as a lame and impotent conclusion ; but I cannot venture to enter upon the more recondite legal and political aspects of the question, and must beg you to believe me,

Your faithful and attached friend,

W. CESTR.

CHESTER, *May 6, 1887.*

## REFORM OF CONVOCATION

### *A Speech in the Upper House of the Convocation of the Southern Province*

[*This speech was delivered after application had been made to the Crown for licence to prepare a canon dealing with the reform of Convocation, and the Crown had given no answer—the customary manner of expressing a refusal.*]

. . . I do not like to appear here or outside as an opponent of the free development of Convocational action, or as a subservient Erastian, setting the peaceful relation of Church and State as the *summum bonum* of ecclesiastical life. It is not so with me at all; for the last fifty years I have been actively interested in the revival and working of Convocations. Since I took my degree in 1848 I have, I think, belonged to most of the societies formed for securing this. I remember well in 1850, when the Papal aggression roused us to show so much more zeal than discretion, the need of a Convocation to speak the mind of the Church of England was imperatively forced upon us. I had a part in the election of proctors from 1851, as long as I remained a parish priest; and when I was called to work in another field the matter, in its historical as well as in its practical bearings, was kept constantly before me in relation to national history. So, if you do not agree with me, you must give me credit for approaching you not without a sympathy which, although limited, I may presume to call intelligent.



You have had, my lords, before you in the reports of committees, in the opinion of the law officers, and in debates in both Houses of Convocation, a quantity of illustrative materials, dates, documents, theories and dogmas, inferences and assumptions, which are a little bewildering, on the history of Convocation. You are as well aware as I am of the varied views of the Convocation itself which are entertained in the political and ecclesiastical field of party—from the high view of spiritual authority and liberty, loved as an outwork of the Faith, or hated as a windmill of Sacerdotalism, down to the contemptuous regard of those who have so long looked on us from the point of atavistic Whiggery, as a nest of restless insects to be settled by a handful of dust or sand (I do not remember our dear Hallam's courteous term).<sup>1</sup>

In what I am going to say, I shall ask you not to try to recall a good deal that you have read, and to forget a good deal of what you know, that seems to me to be irrelevant to the issue before us. A very few dates and a very few principles are enough to determine us on the historical bearing of the questions—and possibly two or three experimental considerations may enable us to see our way to make a good use of our existing position rather than to risk, by attempting too much, the loss of what we have an historical or political right to claim or to look forward to. You will not expect me, in looking at the historical point, to attempt a statement of the possible conditions of ecclesiastical liberty. I merely mention the point now because it has to be guarded. The spiritual liberty of the Church,

[<sup>1</sup> The reference is to the account of the Bangorian controversy and the suppression of Convocation in Hallam's *Constitutional History*, chap. xvi. "In the ferment of that age, it was expedient for the state to scatter a little dust over the angry insects; the convocation was accordingly prorogued in 1717, and has never again sat for any business." New edn., 1876; vol. iii, p. 247. W. H. H.]

and of every religious community in all lands, must be understood to be conditioned, as to its existence and exercise, by certain temporal relations. All history proves this ; if there be a possibility of perfect spiritual freedom, that is of entire spiritual independence, it is a possibility of the future. Neither for effective legislation, nor for effectual exercise of jurisdiction, can the Church, in the existing circumstances of humanity, dispense with the *ultima ratio*—the physical enforcement of law or sentence, canon or censure without the aid of the secular arm.

A legislative or judicial body may be absolutely and purely spiritual, owing every particle of its essence to the ordinance of Apostles, canons, constitutions, or the Bible direct ; but if it is to get beyond the *forum conscientiae* it must have the aid of the temporal law ; and, indeed, a recognition by the temporal law is a necessary condition for its existence in society. So, unnecessary as it is to say this, I will dismiss it, adding that in what has been done and is done in this case there is no infringement of any conceivably practical ideal of ecclesiastical freedom. With whatever body of Christians we compare ourselves, we must see that no religious organisation throughout the world can claim absolute independence of the need of recognition and practical help from the source which, in the sense that I am using, is non-spiritual. The powers that be are ordained of God, and, even if they were not, the work could not be done without them. The difference between State Churches and Free Churches, as they are called, lies only in the more or less intimate character of the connexion, and in the historical development of the mutual obligation.

But now as to the particular example. The Crown, through its officers, declines apparently to assist in the passing of a canon to reform the constitution of the

Lower House of the Convocation of Canterbury, which subsists, as it has subsisted, with only incidental modifications of persons and office, since the reign of Edward I. Here is the crucial question: One party says, "This should be done by canon;" the other says, "This cannot be done without the action of or reference to Parliament." First, then, why must it be done only by canon? Second, why should it not be done without reference to Parliament? One main argument for doing it by canon arises from the understanding that it was by canon that the present existing system was established. Now, it may be very desirable that such things should be done by canon, or canonically; but I think that it may be proved that the present system was not so established, and need not be so altered. It is to me at least clear from documentary evidence that the form of proceeding is based on an arrangement made by the archbishop of Canterbury in an assembly, or *congregatio*, held at Northampton on the octave of S. Hilary, 1283; a *congregatio* which, whatever else might be said of it, could not be said to be competent to make a canon, because it was summoned peremptorily by the king, also because the necessity for imposing the rule was owing to the absence of the persons or their representatives, who certainly might have been expected to be necessary to a canon-making *congregatio*. The assembly was, in fact, one of those exceptional gatherings which Edward I tried experimentally when he was hard set for money, and found it hard to get the clergy to contribute from their spiritual revenue. He called towards the close of 1282 two *quasi*-Parliaments or assemblies of the estates—one at York, the other at Northampton; the money question was put before the clergy present, who did not number among them parochial proctors, or indeed, I think, archdeacons either; but I am not



quite sure about that ; and they refused to answer for their absent brethren. In consequence, the archbishop, apparently by his ordinary authority as usual, issued his writ for three weeks after Easter, when, after discussion in diocesan assemblies, the clergy were to elect two proctors from each diocese, *Sicut in dicta congregatione provisum fuerat*. The importance of the words must not be overrated ; but it seems decisive, as it furnishes the form which has been followed in this province ever since, being sometimes, I grant, called and treated as a canon.

It is otherwise in the Northern Province, which never claimed to have such a provision by statute or canon, but maintained, by the following of more ancient precedent, and by acceptance of the common law right of the archbishop, to summon his clergy in his own way, a practice which seems historically established a few years before this provision at Northampton. It must not be understood that this prescription, or enactment—if it could be called an enactment—was the introduction of a new principle. The custom of dual representation of communities by elected proctors was very ancient in both Church and State, and is traced, I believe, in most countries of old civilisation, from the very first appearance of record. But this provision was the point at which our practice became stereotyped or crystallised, as people say ; and this is the formal side that the advocates of change think requires alteration. We are all aware that the defining influences that operated on the Convocation at the time were working also in the direction of parliamentary development. This prescription of Northampton is just twelve years older than the great writ of Edward for the normal or model Parliament of 1295, on which all subsequent Parliaments were based down to the year 1832, and which took its

motive in the maxim of the civil law, *Quod omnes tangit ab omnibus approbetur*. The resolutions and votes which had, up to this time, been taken, as one might say, by hook or by crook, by *quasi*-Parliaments, councils, county gatherings, diocesan synods, Exchequer visitations, and inquests, by special agents and pressure of royal claims on temporalities and spiritualities alike, were from this time set ostensibly, at least, on a rational and intelligible constitutional basis.

I have not said anything in this short but tedious statement about the attempt which the king made, and which was not given up by his successors for some fifty years, to get the clergy to make their grants in Parliament, by summoning them, through the *praemunientes* clause in the parliamentary writs of the bishops. It is possible that some of your lordships have untied the blue ribbon of your writs at the opening of a new Parliament, and seen that you are still enjoined to bring up your deans, archdeacons, and representative clergy—not to S. Paul's or to York, as the Convocation writs run, but to Westminster. The clergy had their chance then of being a working estate of Parliament, and a balancing chance of gaining more freedom of spiritual legislation when the Convocations were relieved from their financial business. But they would not obey the "premunion," and we are having the advantage or disadvantage of their non-compliance; they might have held out in Parliament against imposts, in consideration of which they got no privilege. But the battle, if it was a battle, was not fought out so. This consideration, which I would willingly have omitted, if I could, does very wearisomely embarrass the ordinary discussions on this question. I think that you will find it discussed by most of the law officers of the Crown. It turns up incidentally at the Reformation, but otherwise is

irrelevant, interesting only in the line of fossil. If, my lords, you interpret these two or three incidents as I do, you must, I think, concede that there can be no irrefragable argument in the history for proceeding by canon in the reform of principle which was not established by canon. Independently of the historical argument, canon may be the best way of doing what is wanted.

Just one word on the wider consideration. We must remember that we are dealing with practical life and history. We must remember that the English Convocation is not an ideal institution, but the result of a growth which has many parallels in ecclesiastical theory and in the practice of foreign Churches, but with a history of its own. We must recognise that its form has been moulded, and its existence and action have continued to exist, been tolerated, suspended and restored, intermitted and renewed by the working of the secular influence, of which I spoke before; and that with all its rights, indefeasible as I deem them, to spiritual liberty of action—and notwithstanding its occasional exercise of those rights as in the age of Wycliffe, of the great schism, of the Reformation, of the Restoration, on the subject of the canons, and on the Liturgy—far the greatest part of the work of the Lower House was concerned with the money votes and questions of revenue rather than with what we understand as properly spiritual concerns. Since the practical surrender of the right of voting subsidies, at the beginning of the reign of Charles II, and only since then, has the spiritual work been the exclusive or the chief occupation of the Lower House. On this view I think some consideration might fairly be claimed.

But I confess that whilst we might by permission of the archbishop proceed by canon in the matter,



there is no reason whatever for regarding it as essential. The other contention on which we presume that the refusal of the licence is grounded — namely, that the consent of Parliament is necessary — may be more easily disposed of without going into the arguments of the law officers of the Crown, with some of which we might agree and with others of which we might not agree. It is, of course, historically true that the Parliament has exercised no direct authority over the Convocations; it has, in fact, said extremely little about them; and, as the existing constitution of Convocation is, as we have seen, some twelve years older than that of Parliament, the latter cannot have created the former. But the law of the land, in reference to which Parliament is supreme, does enforce the law of the Church within certain limits and with certain conditions; and the Convocation has its relation very distinctly to the law of the Church, so far, at least, as the making of canons is concerned. Now it stands to reason that if the legislative action and consequent judicial procedure, or such small remains of canonical action as we retain under the wide reforms of all law that have been going on during the last sixty years, are still to be worked by canons and courts, the body that issues canons and works through courts must have a recognition from the body that by law, or by supreme control over the executive, has the responsibility of enforcing decisions legally and canonically arrived at.

A reformed Convocation must be recognised by Parliament, whether it is founded on canon or anything else, as identical with the historic prescriptive body which for six centuries the nation, through Parliament, has treated as possessing, within varying limitations, certain powers which the law, over which the Crown and the three estates exercise supreme

control, engages or continues to enforce. So I think on general grounds a parliamentary recognition of any serious modification such as proposed is absolutely necessary. How can it be done? How can it be attempted? Well, it can be done by a short declaratory Act recognising in the reformed Convocation—reformed by the authority of the archbishop, under conditions which might be defined by canon or otherwise—the authority which is recognised in the existing body of Convocation. Very little, indeed, that authority comes to, for very little notice has the Commons House, at least, taken of its elder sister; but such as it is, it is what would have to be recognised. How is it to be attempted? Well, that is quite a different thing; and it is the concern of those who are prepared to face intelligent and unintelligent prejudice, and determined hostility and captious criticism, and suspicious support, and most unhelpful offers of co-operation, in an area where time for legislation is limited, and competition of matters and speakers is very lively, and patience taxed to very little purpose.

I am inclined to let well alone, and make the best of it. And why should not we? Why should not the deans, archdeacons, and capitular and parochial proctors be regarded as sufficiently representative for all purposes? Surely the deans, as a rule, represent a good deal of ecclesiastical learning and authority, as well as a side of Church polity on which the State is popularly supposed to have a special interest and influence; the capitular proctors, some twenty men of experience, mature age, and knowledge of the world, as well as of the Church, gained chiefly in parochial work in the past; the archdeacons, who add to those qualifications the traditions and experiences of the several administrations of successive bishops who have appointed them—here is every element, humanly

speaking, of competency and discretion. And if the half-hundred diocesan proctors supply a fair representation of younger and, perhaps, more transient opinion, two for each diocese would be as effective as half a dozen; they do supply much more, I know, but I merely put them in this way as a contributory element. Well, I honestly believe that we have thus as good a House as we should ever get: and the representative element being estimated at its proper value, theoretic or experimental, I am prepared to acquiesce, with complacency, in the decision of the ministers.

In conclusion, as this decision on the part of the Crown blocks the matter for the present, might we not agree to try to make the best of the situation? That certain reforms might be made in particular dioceses by the ordinary authority of the diocesans is, I think, quite possible. The election of diocesan proctors is by no means stereotyped into one form for which irrefragable custom should be pleaded. It is not desirable that it should, but the existing laxity and variety of rule makes it possible to try to remove real abuses. At all events, something could be done to obviate reasonable complaints such as occasionally reach us. Then, more generally, I think that it would be as well to avoid concessions, which cannot be withdrawn, about the representative theory of the Lower House; its representative function, construed literally and historically, was based, as I have tried to show, on a state of things which has long passed away—the representation of taxation. The representative character, as we accept it now, is based on the elective votes of men who think their elected proctors to be the fittest men for the position; they are not merely delegates with power of attorney to agree to certain grants, but senators in whom discretion, learning, piety, and zeal are far more important than the mere support of local



votes, indispensable as they may be—the best men for the position. The constitution of the Church—with due submission to the spirit of the age—and certainly the constitution of Convocation, is not democratic. Will not the clergy show a sufficient solidarity to prove themselves at least superior to jealousies which are more contemptible by far than political and parliamentary jealousies?

And then cannot we, regarding this as settled for the time, do something to show that we are taking pains with what we have undisputed right and power to do, and so approach the great maxim of the spiritual life—to him that hath shall more be given : our fathers were very near realising the loss of that which they seemed to have? And finally, at least, cannot we by ourselves, and in conjunction with those who in this matter acquiesce, as we do, do something to prove how irrational is the cry, and how certain to be used against us by those who oppose us on all sorts of fundamental grounds, that we can do no good, and are not worthy of practical, much less respectful, consideration, because we cannot secure one particular and peculiar instalment of reform, in the direction of an ideal system which may not work as well as the old one has done? We have examples : we have also warnings.

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